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11 **UNITED STATES BANKRUPTCY COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **LOS ANGELES DIVISION**

14 In re:

15 JASON DARNELL HUGHES,
16 Debtor.

Case No.: 2:22-bk-12526-BB

Chapter 7

17 **EX PARTE MOTION TO WITHDRAW
AS ATTORNEY FOR THE DEBTOR**

18 [No hearing required unless ordered by Court]

19 20 21 Debtors' counsel, Benjamin Heston (hereinafter "Counsel"), hereby moves to be relieved as counsel for the Jason Darnell Hughes (hereinafter "Client") for the reasons stated below. Furthermore, Counsel is seeking that the Court make its ruling on an expedited basis due to the fact that the deadline for objection to discharge is today, August 1, 2022, and the case is currently in a position that it could be discharged and closed at any moment. Counsel will be emailing a copy of this motion to Client immediately upon it being filed with the Court.

22 **STATEMENT OF FACTS**

23 24 This Chapter 7 case was filed on May 4, 2022. Under the terms of the retainer agreement and pursuant to the Declaration re: Limited Scope of Appearance Pursuant to Local Bankruptcy Rule 2090-1, Counsel agreed to render the following services:

- 25 26 27 a. Analysis of the debtor's financial situation, and rendering advice to the debtor in determining whether to file a petition in bankruptcy;

1 b. Preparation and filing of any petition, schedules, statement of affairs and plan
2 which may be required;

3 c. Representation of the debtor at the meeting of creditors and confirmation
4 hearing, and any adjourned hearings thereof.

5 Docket #1, Voluntary Chapter 7 Petition, p. 43.

6 Counsel has provided all contracted-for services, and has no further obligation to render
7 services on behalf of Client. Additionally, Counsel has filed Amended Schedule C and a Motion
8 to Redact Personal Identifiers. Counsel has not charged any additional fees for rendering these
9 additional services.

10 Client now seeks to file documents with the Court that are beyond the scope of the
11 contracted-for services. Additionally, there has been an irreconcilable breakdown of
12 communication between Counsel and Client due to a disagreement as to whether documents
13 that Client is requesting be filed are impermissible pursuant to Federal Rule of Bankruptcy
14 Procedure 9011(b)(2).

15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 **PURSUANT TO LOCAL BANKRUPTCY RULE 2091-1(a), AN ATTORNEY MAY**
17 **WITHDRAW FROM A CASE, EXCEPT WHERE IT WILL CAUSE UNREASONABLE**
18 **DELAY IN PROSECUTION OF THE CASE OR PROCEEDING.**

19 Local Bankruptcy Rule 2091-1(a) empowers the Court to approve withdrawal of counsel
20 for good cause shown provided the withdrawal of counsel shall not cause unreasonable delay in
21 prosecution of a case or proceeding. Additionally, there are several provisions of the California
22 Rules of Professional Conduct that are relevant here:

23 (A) In General.

24 (1) If permission for termination of employment is required by the rules of
25 a tribunal, a member shall not withdraw from employment in a proceeding
26 before that tribunal without its permission.

27 (B) Mandatory Withdrawal.

28 A member representing a client before a tribunal shall withdraw from

1 employment with the permission of the tribunal, if required by its rules, and
2 a member representing a client in other matters shall withdraw from
employment, if:

3 (2) The member knows or should know that continued employment
4 will result in violation of these rules or of the State Bar Act;...

5 (C) Permissive Withdrawal.

6 If rule 3-700(B) is not applicable, a member may not request permission to
7 withdraw in matters pending before a tribunal, and may not withdraw in
other matters, unless such request or such withdrawal is because:

8 (1) The client

9 (a) insists upon presenting a claim or defense that is not
10 warranted under existing law and cannot be supported by
good faith argument for an extension, modification, or
reversal of existing law...

11 (c) insists that the member pursue a course of conduct that is
12 illegal or that is prohibited under these rules or the State Bar
Act...

13 (e) insists, in a matter not pending before a tribunal, that the
14 member engage in conduct that is contrary to the judgment
and advice of the member but not prohibited under these
rules or the State Bar Act,

15 (2) The continued employment is likely to result in a violation of
16 these rules or of the State Bar Act;

17 (6) The member believes in good faith, in a proceeding pending
18 before a tribunal, that the tribunal will find the existence of other
good cause for withdrawal.

19 California Rules of Professional Conduct 3-700, Termination of Employment.

20 Here, Client has requested that Counsel file certain documents that Counsel does not
21 believe are advisable or warranted under existing law or a meritorious argument for a change in
22 existing law. That said, Counsel does not make any assertions as to the merits of the underlying
23 arguments of what Client wishes to file, but is requesting withdrawal based on *his belief* that
24 continuing the representation at Client's behest would be a violation of Federal Rule of
25 Bankruptcy Procedure 9011. Likewise, due to the fact that Counsel will not be filing these
26 documents, withdrawal is necessary for Client to file the documents which *he believes* are in his
27 best interests.

1 **CONCLUSION**

2 It is therefore respectfully requested that the Court enter an order relieving Benjamin
3 Heston as counsel for the Debtor. Furthermore, it is respectfully requested that the Court
4 promptly rule upon this motion in order to avoid undue prejudice and delay.

5
6 Date: August 1, 2022

7 HESTON & HESTON,

8 
9 _____
10 BENJAMIN HESTON,
11 Attorney for Debtor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**19700 Fairchild Road, Suite 280
Irvine, CA 92612**

A true and correct copy of the foregoing document entitled (*specify*): will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) August 1, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Brad D Krasnoff (TR) BDKTrustee@DanningGill.com, bkrasnoff@ecf.axosfs.com;DanningGill@gmail.com
Brett P Ryan ziggy.valerio@unifyfcu.com, bankruptcyleftdepartment@unifyfcu.com
Valerie Smith claims@recoverycorp.com
United States Trustee (LA) ustpreregion16.la.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) August 1, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Sheri Bluebond
255 E. Temple Street
Suite 1534 / Courtroom 1539
Los Angeles, CA 90012

Jason Darnell Hughes, #5069
P.O. Box 1198
Sacramento, CA 95812

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 1, 2022 Yanira Flores
Date Printed Name

/s/Yanira Flores
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.